



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,894	06/20/2001	Gregory S. Shelness	9151.18	4865

20792 7590 01/27/2003

MYERS BIGEL SIBLEY & SAJOVEC  
PO BOX 37428  
RALEIGH, NC 27627

EXAMINER

BASI, NIRMAL SINGH

ART UNIT	PAPER NUMBER
----------	--------------

1646

DATE MAILED: 01/27/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: Commissioner of Patents and Trademarks  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/885,894			

EXAMINER

ART UNIT PAPER NUMBER

7

DATE MAILED:

**Please find below a communication from the EXAMINER in charge of this application.**

**Commissioner of Patents**

The reply filed on 10/24/02 is not fully responsive to the prior Office action because of the following omission(s) or matter(s): Applicant has not included an election of the invention. Applicant has also not included an election of species. Applicant states in paper number 6 (10/24/02), "Applicants believe that by amending the claims as presented herein they are dutifully electing the invention assuming the new claims are found to be acceptable". The new claims have been entered. Newly added claims 44-46, 48-60, 62-69 and 70-78 fall into Group 1, claims 44-45, 47-59, 61-79 fall into Group 2, claims 80-90 fall into Group 3, claims 80-90 fall into Group 4, claims 91-92 fall into Group 5 and claims 91-92 fall into Group 6. In instant case by amending the claims Applicant is not dutifully electing the invention to be examined. As indicted in paper number 4, for a response to the restriction requirement to be complete it must include an election of the invention to be examined even though the requirement be traversed i.e. Applicant must specifically indicate the Group elected. Applicant is also required to elect a species as indicated in paper number 4. Because these inventions are distinct for the reasons given in paper number 4 and have acquired a separate status in the art, restriction for examination purposes as indicated is proper. A search of the art for Inventions 1-6 and 7-75 would not be co-extensive with each other. Because the searches required for these inventions are not co-extensive an examination of the materially different, patentably distinct inventions in a single application would constitute a serious burden on the examiner.

Further this application contains sequence disclosures that are encompassed by the definitions for nucleotide and / or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And / Or Amino Acid Sequence Disclosures. Compliance with sequence rules is required. Applicant is given a TIME PERIOD of

**ONE (1) MONTH** from the mailing date of this communication within which to correct the deficiency so as to comply with the sequence rules (37 CFR 1.821 - 1.825) in order to avoid abandonment of the application under 37 CFR 1.821(g). See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

**Advisory Information**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nirmal Basi whose telephone number is (703) 308-9435. The examiner can normally be reached on Monday-Friday from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached on (703) 308-6564. The fax phone number for this Group is (703) 308-0294.

Official papers filed by fax should be directed to (703) 308-4242. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Nirmal S. Basi  
Art Unit 1646  
January 24, 2003

  
YVONNE EYLER, PH.D.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING  
NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- ☒ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☒ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked-up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☐ 7. Other:

**Applicant Must Provide:**

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

For PatentIn software help, call (703) 308-6856

**PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE**